HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's Order whether the case is or not approved for reporting)

(Chapter VIII Rule 32 (2) (b)

Description of the case

W.P. No. 236/2005(S/S)

Smt. Kiran, D/o Mahdav Prasad

Vs.

Sanyukt Ganna Evam Chini Ayukta, Uttaranchal
Kashiur

Approved for reporting

~~Not approved for reporting~~

Date of Decision 22.02.2006

Initial of Judge

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 236 (SS) OF 2005

Smt. Kiran, D/o Madhav Prasad,
R/o Village Gram Jigni (Milki),
Post Sankhopar, District Kushinagar. .....Petitioner.

Versus

1. Sanyukt Ganna Evam Chini Ayukta, Uttaranchal (Kashipur).
2. Sahayak Ganna Ayukta Udham Singh Nagar.

.....Respondents.

Sri S.S. Yadav, Advocate for the petitioner.
Learned Standing Counsel for the respondents.

Dated:22.02.2006

Hon'ble Rajesh Tandon, J.

Heard Sri S.S. Yadav, learned counsel for the petitioner and learned Standing Counsel for the respondents.

By the present writ petition, the petitioner has prayed for a writ of mandamus commanding and directing the respondents to give appointment to the petitioner in a post according to her qualification under lying in harness rules.

2. Brief facts giving rise to the present writ petition are that the father of the petitioner died on 15.01.2000 in harness while he was working with the respondent on the post of Sugar Cane Supervisor/Gram Panchayat Vikas Ahikarti and was working at Vikas Khand Kotabag District Nainital.

3. At the time of death of her father, the petitioner was minor and her mother filed an application before the authorities concerned that she has tow daughters namely Manju

aged about 28 years, Km. Kiran aged about 14 years and a son Jay Kumar aged about 22 years.

3. According to the case of the petitioner, her mother was willing to give appointment on compassionate ground to the petitioner as her brother Ajay Kumart was studying in higher class and in this regard, he filed an affidavit that he has no any objection regarding the compassionate appointment to his younger daughter Km. Kiran and in this regard the mother of the petitioner also filed an affidavit.

4. Learned counsel for the petitioner has submitted that just after the death of the father of the petitioner, her mother gave an application on 06.03.2000 regarding the compassionate appointment to her daughter after attaining the age of majority because prior to attaining majority, any employment with any State/Govt./Institution is not permissible under the constitution, therefore, in the representation dated 06.03.2000, she sought time for compassionate appointment upto attaining the majority of the petitioner.

5. When the petitioner attained the Majority, her mother gave an application again on 8th November, 2004 for her appointment on compassionate ground.

6. Learned counsel for the petitioner has submitted that after the death of father of the petitioner, the situation of the family of the petitioner has become very bad and the whole family is on the verge of starvation.

7. The short submission of the petitioner is that the authority concerned is not paying any heed to the representation of the petitioner for appointment on compassionate ground.

8. In ***Umesh Kumar Nagpal Vs. State of Haryana and others (1994) 4 SCC 138***, the Apex Court has observed as under:-

"The whole object of granting compassionate employment is to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. What is further, mere death of an employee is harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family. The post in Classes III and IV are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds, the object being to relieve the family, of the financial destitution and to help it get over the emergency."

9. In ***Writ Petition No. 91 of (S/S) of 2003 Bhaguli Devi Vs. State of Uttaranchal and others***, similar controversy arose, where the employee concerned has worked on daily-wage for about 16 years and this Court has held as under:-

"For the reasons recorded above, since the petitioners' husband was continuing in employment for more than 16 years, petitioner is entitled to get benefit of the Uttar Pradesh Recruitment of Dependants of Government Servants Rule 1974, which has been adopted by the State of Uttaranchal.

In view of the above discussion, I direct the respondents Authorities to consider the claim of the petitioner for providing her appointment under Uttar Pradesh Recruitment of Dependants of Government Servants Rules 1974 within a period of six weeks from the date of production of certified copy of this order."

10. In view of the above, the respondents are directed to consider the representation of the petitioner within a period of two months from the date of presentation of the certified copy of the order.

11. Writ petition is disposed of accordingly. No order as to costs.

(Rajesh Tandon, J.)

22.02.2006
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